

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carter Garfield	Team: Squad #10	CCRB Case #: 202004155	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 05/25/2020 7:46 PM	Location of Incident: § 87(2)(b) § 87(2)(b)	Precinct: 79	18 Mo. SOL 11/25/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 06/10/2020 12:22 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 06/10/2020 12:22 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Damany Ferril	01434	947648	079 PCT
2. POF Necibe Sinmazisik	28978	966858	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Kiersten Chambers	26702	966995	079 PCT
2. POM McCartney Forbes	11038	966577	079 PCT
3. POM William Penkal	15243	956157	079 PCT
4. POF Neysa Korycki	04271	960606	079 PCT
5. POM Ronald Chiriboga	13300	955814	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Damany Ferril	Abuse: Sergeant Damany Ferril entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.SGT Damany Ferril	Abuse: Sergeant Damany Ferril searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.SGT Damany Ferril	Abuse: Sergeant Damany Ferril failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
D.SGT Damany Ferril	Abuse: Sergeant Damany Ferril failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
E.SGT Damany Ferril	Abuse: Sergeant Damany Ferril entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
F.SGT Damany Ferril	Abuse: Sergeant Damany Ferril searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
G.POF Necibe Sinmazisik	Force: Police Officer Necibe Sinmazisik tightly handcuffed § 87(2)(b)	§ 87(2)(b)

Case Summary

On June 10, 2020, § 87(2)(b) filed the following complaint on the CCRB website on behalf of herself.

On May 25, 2020, at approximately 7:46 p.m., at § 87(2)(b) in Brooklyn, officers responded to 911 calls made by § 87(2)(b) and § 87(2)(b). Sgt. Ferril, PO Sinmazisik, PO Forbes, PO Penkal, PO Korycki, and PO Chiriboga, all from the 79th Precinct, responded.

§ 87(2)(b) who was standing outside of § 87(2)(b) stated that § 87(2)(b) who lived in § 87(2)(b) assaulted her. After speaking with § 87(2)(b) Sgt. Ferril went inside to locate § 87(2)(b).

Sgt. Ferril knocked on the door of § 87(2)(b) and spoke with § 87(2)(b) and § 87(2)(b). Sgt. Ferril entered the apartment, stating that he needed to see everyone who lived there (**Allegation A: Abuse of Authority – Entry of premises, § 87(2)(g)** (**Allegation B: Abuse of Authority – Search of premises, § 87(2)(g)**). Upon learning he was at the wrong apartment, Sgt. Ferril left without providing a business card (**Allegations C, D: Abuse of Authority – Failure to provide RTKA card, § 87(2)(g)**).

Sgt. Ferril knocked on the door of § 87(2)(b) and spoke with § 87(2)(b) and her husband, § 87(2)(b). § 87(2)(b) stated that it was § 87(2)(b) that had assaulted her. Sgt. Ferril made the determination that this was a cross-complaint and decided that both § 87(2)(b) and § 87(2)(b) were to be arrested and taken back to the 79th Precinct. At one point, Sgt. Ferril entered § 87(2)(b)'s apartment, stating that he needed to keep an eye on § 87(2)(b) (**Allegation E: Abuse of Authority – Entry of premises, § 87(2)(g)** (**Allegation F: Abuse of Authority – Search of premises, § 87(2)(g)**).

While this occurred, PO Sinmazisik and PO Penkal placed § 87(2)(b) in handcuffs and took her to the 79th Precinct stationhouse. Before placing her in the police vehicle, PO Sinmazisik allegedly placed a zip tie around § 87(2)(b)'s wrist and pulled it tightly (**Allegation G – Force: Handcuffs too tight, § 87(2)(g)**).

Both § 87(2)(b) and § 87(2)(b) were arrested. Body-worn camera footage was obtained from all officers (**BRs 09 - 15**). Relevant portions will be discussed below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Damany Ferril entered § 87(2)(b) § 87(2)(b) in Brooklyn.

Allegation (B) Abuse of Authority: Sergeant Damany Ferril searched § 87(2)(b) § 87(2)(b) in Brooklyn.

Allegation (C) Abuse of Authority: Sergeant Damany Ferril failed to provide § 87(2)(b) with a business card.

Allegation (D) Abuse of Authority: Sergeant Damany Ferril failed to provide § 87(2)(b) with a business card.

Allegation (E) Abuse of Authority: Sergeant Damany Ferril entered § 87(2)(b) § 87(2)(b) in Brooklyn.

Allegation (F) Abuse of Authority: Sergeant Damany Ferril searched § 87(2)(b) § 87(2)(b) in Brooklyn.

This complaint was originally filed by § 87(2)(b) who provided an intake (**BR 01**) and phone statement (**BR 02**). § 87(2)(b)'s son, § 87(2)(b) also provided a phone statement (**BR 03**). Upon receiving and reviewing BWC, it was determined that there were additional victims in this complaint, and so § 87(2)(b) (**BR 04**), her husband, § 87(2)(b) (**BR 05**), as well as both § 87(2)(b) and § 87(2)(b) (**BRs 06, 07**) were all identified via Lexis searches and subsequently interviewed.

§ 87(2)(b) consistently stated (**BRs 01, 02**) that on May 25th, 2020, she went to the 79th Precinct stationhouse to report that § 87(2)(b) had assaulted her by hitting her with a stick. She

was told by PO Chambers at the front desk to return to § 87(2)(b) and call 911, which she did. When officers responded, after taking her statement outside the building, they told her she was being taken to the 79th Precinct stationhouse.

§ 87(2)(b) (BR 04) stated that she originally called 911 that day at approximately 1:00 p.m., to report that § 87(2)(b) had poured toxic chemicals into her garden. FDNY responded and determined that the incident was for NYPD. § 87(2)(b) did not call 911 again for police. Later that evening, she got into a physical fight with § 87(2)(b) and called 911 again.

Officers knocked on the door to her apartment, where § 87(2)(b) spoke with Sgt. Ferril. After taking her statement, Sgt. Ferril asked § 87(2)(b) to take off her jewelry and “come down to the precinct to answer some questions.” § 87(2)(b) asked if § 87(2)(b) was being arrested, and Sgt. Ferril said no. As § 87(2)(b) removed her jewelry, Sgt. Ferril stuck his foot in the door to prevent the door from closing, and then stepped inside the apartment, stating that he needed to keep a visual on § 87(2)(b). Sgt. Ferril did not ask if he could enter their apartment and neither § 87(2)(b) nor § 87(2)(b) gave him permission to do so.

§ 87(2)(b) (BR 05) provided a statement that was consistent with § 87(2)(b)s.

§ 87(2)(b) (BR 06) provided a brief statement over the phone. He could not recall much to do with the incident, except that officers knocked on their door that day looking for § 87(2)(b).

§ 87(2)(b) (BR 07) stated that her husband answered the door to four officers, where one (matching Sgt. Ferril’s description) said that he needed to see everyone in the apartment. She stated that Sgt. Ferril did not enter her apartment and did not provide anyone with a business card.

Sgt. Ferril was interviewed for this complaint (BR 08). He confirmed that § 87(2)(b) told him that § 87(2)(b) lived in § 87(2)(b) and that a stick was involved in the assault. He entered § 87(2)(b)s apartment as she removed her jewelry. Sgt. Ferril stated that he “would have remembered” if § 87(2)(b) or § 87(2)(b) told him not to enter the apartment. Sgt. Ferril did not know if they gave him permission to enter the apartment either. He stated this situation was not an emergency and there was no reason to rush § 87(2)(b) at any point. He did not recall interacting with § 87(2)(b) or § 87(2)(b).

Sgt. Ferril’s BWC (BRs 12, 15) was presented during the interview. 2:21-3:15 was played for Sgt. Ferril. Sgt. Ferril stated that the video refreshed his memory of the incident. Sgt. Ferril said that because of the “type of crime” this was, that there was a stick involved and could be a felony, he needed to see everyone inside of the apartment. Sgt. Ferril stated that he entered this apartment to look “both ways” inside the apartment to confirm who was inside and to locate § 87(2)(b). He did not observe any weapons inside the apartment.

27:00-27:45 was played during the interview. Sgt. Ferril further stated that when § 87(2)(b) stepped behind the door briefly, he needed to keep his eyes on her for safety purposes. Sgt. Ferril stated that § 87(2)(b) was not a threat at any point. Sgt. Ferril stated that he did not provide a business card to the individuals who lived below § 87(2)(b) because they were not stopped, nor did they ask for one (BR 08).

In Sgt. Ferril’s BWC (BRs 12, 15), the video begins with Sgt. Ferril speaking with § 87(2)(b) who tells him that § 87(2)(b) hit her with a stick and lived in § 87(2)(b). At 2:20, Sgt. Ferril knocks on the door of § 87(2)(b). § 87(2)(b) answers, and Sgt. Ferril says he needs to speak to everyone in the house. He then steps inside the apartment without asking if he can enter. Sgt. Ferril steps in far enough that the entire hallway behind the door is visible, including inside a bedroom that has an open door. § 87(2)(b) exits one of the rooms in the apartment. Sgt. Ferril states that he needs to speak to everyone in § 87(2)(b) and the woman says that § 87(2)(b) is the floor above. Sgt. Ferril exits the apartment and heads upstairs. He does not provide anyone with a business card.

At 27:10, while speaking with § 87(2)(b) and § 87(2)(b) Sgt. Ferril steps inside § 87(2)(b)s apartment, saying, “I’m just going to step in with her, alright?” § 87(2)(b) says no multiple times. Sgt. Ferril states that “there’s not really a choice.” At 34:06, § 87(2)(b) is placed

in handcuffs and is escorted out of the building.

These allegations were only pleaded against Sgt. Ferril as he was the supervisor on scene and initiated the entry and search of both apartments.

In Payton v. New York 445 U.S. 573 (1979), it was determined that the Fourth Amendment "prohibits the police from making a warrantless and nonconsensual entry into a suspect's home in order to make a routine felony arrest" (BR 16).

NYPD Patrol Guide 203-09 states that "a business card is to be offered for a law enforcement activity, except in cases when a summons is issued or an arrest is made" for a number of reasons, one being "Search of persons or property, including vehicles" (BR 17).

NYC Administrative Code § 14-174 states "A business card is to be offered for a law enforcement activity, including stops, frisks, and searches of persons and property, except in cases when a summons is issued, or an arrest is made" (BR 29).

§ 87(2)(g)

§ 87(2)(g) Sgt. Ferril also stated that he was looking for weapons (specifically a stick) when he entered both § 87(2)(b)s and the § 87(2)(b)'s apartments. § 87(2)(g) Furthermore, after effectively searching § 87(2)(b)s apartment, Sgt. Ferril did not provide § 87(2)(b) or § 87(2)(b) with a business card as required. § 87(2)(g)

Allegation (G) Force: Police Officer Necibe Sinmazisik tightly handcuffed § 87(2)(b)

In both her intake and verified statement, § 87(2)(b) alleged that PO Sinmazisik placed a zip tie onto her left wrist so tightly that it injured her wrist (BRs 01, 02).

Since PO Sinmazisik's BWC footage is comprehensive, she was not interviewed for this complaint as her statement would not affect the recommended disposition.

In PO Sinmazisik's BWC footage (BRs 09, 15), § 87(2)(b) is clearly seen being placed into handcuffs outside of § 87(2)(b). At the 27:10 minute mark, PO Sinmazisik says, "Let me just double lock these so they don't move." Before § 87(2)(b) steps into the vehicle, PO Sinmazisik uses a peg to lock the handcuffs. No zip tie is applied, and at no point does § 87(2)(b) make any remark that the handcuffs are too tight. At the 37:50 mark, § 87(2)(b) is led into a holding cell at the 79th Precinct stationhouse and PO Sinmazisik removes the handcuffs. § 87(2)(b) does not make any mention of pain from the handcuffs after they are removed.

BWC footage confirms that PO Sinmazisik did not place an additional zip-tie on § 87(2)(b)s wrists but rather double locked the handcuffs to prevent them from further tightening. § 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which § 87(2)(b) has been a party (BR 18).
- This is the first CCRB complaint in which § 87(2)(b) has been a party (BR 19).
- This is the first CCRB complaint in which § 87(2)(b) has been a party (BR 20).
- This is the first CCRB complaint in which § 87(2)(b) has been a party (BR 21).
- This is the first CCRB complaint in which § 87(2)(b) has been a party (BR 22).
- Sgt. Ferril has been a member of service for thirteen years and this is the first CCRB complaint in which he is listed as a subject.
- PO Sinmazisik has been a member of service for two years and this the first CCRB complaint in which she is listed as a subject.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b)

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- § 87(2)(b)
- On May 11, 2021, a FOIL request with the Office of the Comptroller for any Notice of Claim filed regarding this complaint came back negative(BR 28).

Squad No.: 10

Investigator: Carter Garfield Inv. Garfield 7/13/21
Signature Print Title & Name Date

Squad Leader: Eric Rigie IM Eric Rigie 7/22/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date